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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SAWHNEY, HARGOBIND S

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,863

Applicant(s)

BIENICK, CRAIG

Examiner

Hargobind S. Sawhney

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-29 and 66-87 is/are pending in the application.
- 4a) Of the above claim(s) 71-77 and 79- 81 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-24, 28, 29, 66-70, 78 and 82--84 is/are rejected.
- 7) ☒ Claim(s) 25-27 and 85-87 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The amendment and response December 12, 2005 have been entered.

Accordingly:

- Claims 21, 23, 24, 28 and 29 have been amended; and
- Claims 1-20 and 30-65 have been canceled;
- New claims 66-87 have been added.

2. Based on the provisional election of Species I of figures 1-4 with traverse, and further review of the elected species, the amended claims 21-29, and newly added claims 66-70, 78 and 82-87 have been examined in this office action, as they have been found readable on Figures 1-4. Further, newly added claims 71-77, 79- 81 have been withdrawn from further consideration, as they have been found not readable on the elected figures 1-4.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 21-24, 67-70, 78, 82- 84 are rejected under 35 U.S.C. 102(b) as being anticipated by Buzan (US Patent No.: 3,197,902), hereafter referred as Buzan.

Regarding claims 21-24, 67-70, 78, 82- 84, Buzan discloses the illuminating device 10 (Figure) comprising:

- a chamber within a housing 11 – the combination of elements 12 and 16 (Figure 1, column 2, lines 32-36); the housing 11 defining a slot opening into the chamber (Figure 1); a panel 15 of light-transmitting material having its edge portion contiguous a slot defined by the housing 11 (Figure 1, column 2, lines 42-44); means 28 for illuminating the panel edge portion through the chamber (Figure 1, column 3, lines 34-40); means 17 for supporting the housing 11 (Figure 1, column 2, lines 36-41) relative to a support – wall, ceiling or vertical or overhead support – (not shown); the housing 11 including a first housing part 16, and a second housing part 12 including the supporting means 17 (Figure 1, column 2, lines 32-41); snap-fastening means 36 for securing and un-securing the first housing part 16 and the second housing part 12 (Figure 1, column 3, lines 64-69) relative to each other to access the chamber (Figure 1);
- means 29 directing light from the illuminating means 28 (Figure 1, column 3, lines 36-40) along the chamber- interpreted as the light flux received by the chamber – towards the panel (Figure 1, column 3; lines 36-45); the first housing part 16 defining the slot receiving the light-transmitting panel 15 (Figure 1);
- the illuminating means 29 – the combination including elements 28, 29 – including a light pipe 29- the illuminating means 29 is considered as a

Art Unit: 2875

- light pipe - for directing light from the light source 28 to the edge portion of the panel 15 (Figure 1, column 3, lines 34-45); the light pipe 29 extending along the length of the chamber (Figure 1, 3 and 4);
- the supporting means 17 being a self bracket – mountable either on a vertical support plane or a horizontal support plane – (Figure 1, column 2, lines 36-41);
 - the housing 11 including axially opposite end portions – opposing end portions 37 (Figure 1) - ; the illuminating means 29 including a light source 28 positioned at one of the end portions 37 of the housing 11 (Figure 1, column 3, lines 34-45);
 - the housing 11 including axially opposite end portions – opposing end portions 37 (Figure 1) - ; the illuminating means 29 including a light source 28 positioned at one of the end portions 37 of the housing 11 (Figure 1, column 3, lines 34-45); and means 16' – the combination of removable housing part 16 and the securing means 36 – axially accessing the light source (Figure 1, column 3, lines 64-74);
 - the two parts 12 and 16 and the slot – receiving the edge of the light-transmitting panel 15 – being relatively elongated; and the securing and unsecuring means 36 being along the elongated housing parts 12 and 16

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzan (US Patent No.: 3,197,902), hereafter referred as Buzan.

Regarding claim 29, Buzan discloses the illuminating device comprising a housing with first and second parts defining a slot receiving an edge portion of a light-transmitting panel. Buzan further teaches each of the housing parts formed in one homogeneous piece. However, Buzan does not specifically teach each of the housing parts being substantially homogeneous molded one-piece member.

The limitation “molded one-piece” is a product-by-process limitation. The applicant is advised that patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966.

Regarding Claim 29, Buzan discloses the illuminating device meets all limitations, except the following, in similar manner as that applied to Claim 28 detailed above. In addition, the illumination device of Buzan further teaches each of the housing parts 12

and 16 including complementary parts of securing and unsecuring means 36 (Figure 1, column 3, lines 64-70).

7. Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buzan (US Patent No.: 3,197,902) in view of Hunter (US Patent No.: 6,283,612 B1).

Buzan (US Patent No.: 3,197,902), hereinafter referred as Buzan, discloses the illuminating device comprising incandescent lamps as illumination means. However, Buzan does not specifically teach the use of light emitting diodes (LEDs) as the illuminating sources for the illuminating device.

On the other hand, Hunter (US Patent No.: 6,283,612 B1) discloses a cabinet (Figure 15) comprising LEDs 44 as illuminating means for illumination of cabinet shelves (Figures 11, 12 and 15, column 4, lines 19, 63-66).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illuminating device of Buzan by providing LEDs as the illumination means as taught by Hunter ('612 B1) for the benefit and advantage of long operational life, high energy efficiency and compactness of the device.

Allowable Subject Matter

8. Claims 25-27 and 85-87 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, including Buzan (US Patent No.: 3,197,902), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose an illumination device combining:

- Means formed of synthetic polymer or co-polymeric material encapsulating at least a portion of the first housing part and the panel edge portion as recited in each of the dependent claims 25-27; and
- Means formed of synthetic polymer or co-polymeric material encapsulating at least one of the housing parts as recited in Claim 85.

The above-indicated combination, including a housing having its at least one of its parts encapsulated with of synthetic polymer or co-polymeric material, makes this invention unique.

Buzan discloses an illuminating device having a housing including a first and second parts, wherein only one of the two parts of the housing includes both the slot and the supporting means. However, Buzan does not teach encapsulation of at least a portion of the first housing part with polymer or co-polymeric material. Thus, Rey does not meet the limitations of each of the claims 24, 28 and 29.

Therefore, Claims 25-27 and 84 are objected over prior art.

Claims 86 and 87 are necessarily objected because of their dependency on the objected base Claim 85.

Response to Amendment

9. Applicant's arguments filed on December 12, 2005 with respect to the 35 U.S.C. 102(b) rejections of claims 21 and 22 have been fully considered but are moot in view of the new ground(s) of rejections. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2875

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571 272 2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS

2/17/2006


ALI ALAVI
PRIMARY EXAMINER